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Baker & Botts, L.L. P.
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EXAMINER

NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/488,395

Applicant(s)

SITARAMAN ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 55 are presented for examination.

Response to Arguments

2. In view of the Appeal Brief filed on 11/06/2004, PROSECUTION IS HEREBY REOPENED. A non-final rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

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F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-55 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 6,665,305 [hereinafter as '305 patent]. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming common subject matter as follow:

Taking claim 1 as an exemplary claim, the '305 patent contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A system for determining subscriber information, comprising:

an access server ...;

a memory couple to:

subscriber information ...; and

path information for ...; and

a processor coupled to the memory and operable to:

compare the path information ...; and

determine subscriber information

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The claims of '305 patent do not specifically disclose the compare the path information for the particular subscriber to the particular virtual circuit as described in the claim 1 of instant application but it would have been obvious to a person skill in the art to recognize that the two set of claims are similar because the determination from physical address and virtual circuit of the '305 patent would enable to identify the subscriber as disclosed in the instant application so that proper connection can be made between devices.

As per independent claims 12, 20, 30, 38, 43, and 48, they are also directed to the same subject matter recited in claim 1 above. Accordingly, they are rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 2-11, 13-19, 21-29, 31-37, 39-42, 44-47 and 49-55, they are depending on rejected claims, they are rejected under the judicially created doctrine of obviousness-type double patenting.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-5, 8-10, 12-18, 20-23, 26-28, 30-36, 38-40, 43-45, 48-54, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandette et al. [US Patent No 6,785,228], in view of Kobayasi et al. [US Patent No 6,456,623].

6. As per claim 1, Vandette discloses the invention substantially as claimed including a system for determining subscriber information, comprising:

an access server coupled to a plurality of subscribers using a communication network [i.e. edge network nodes] [12, 14, Figure 1; and col 2, lines 61-67] and operable to receive a communication from a particular subscriber using a particular one of a plurality of virtual circuits associated with the communication network [32, 34a, Figure 2A; col 2, lines 31-33; and col 4, lines 7-13];

a memory coupled to the access server [i.e. subscriber database] [38, Figure 2A] and operable to store subscriber information for the plurality of subscribers [col 3, lines 51-58].

Vandette does not specifically disclose

path information for the plurality of subscribers, wherein the subscriber information for the particular subscriber is indexed by the path information for the particular subscriber, the path information for the particular subscriber identifies a virtual circuit that is pre-assigned to the particular subscriber for communicating with the access server;

a processor coupled to the memory;

operable to compare the path information of the particular subscriber to the particular virtual circuit used to received the communication from the particular subscriber; and

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determine subscriber information for communication to the particular subscriber based on the comparison.

Kobayasi discloses

path information for the plurality of subscribers [i.e. monitor table] [col 2, lines 35-39], wherein the subscriber information for the particular subscriber is indexed by the path information for the particular subscriber [col 1, lines 22-45], the path information for the particular subscriber identifies a virtual circuit that is pre-assigned to the particular subscriber for communicating with the access server [i.e. register] [col 4, lines 8-15];

a processor coupled to the memory [4, Figure 1; and col 2, lines 19-21];

operable to compare the path information of the particular subscriber to the particular virtual circuit used to received the communication from the particular subscriber [S5, Figure 3; Abstract; and col 2, lines 7-12 and lines 39-43]; and

determine subscriber information for communication to the particular subscriber based on the comparison [S8, Figure 3; and col 5, lines 12-18].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Vandette and Kobayasi because Kobayasi's teaching would allow to determine proper communication paths between computers to prevent connection error.

7. As per claim 2, Kobayasi discloses

the access server comprises one of a plurality of access servers coupled to the processor [2, Figure 1]; and

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the path information for the particular subscriber further identifies an access server assigned to the particular subscriber [col 1, lines 22-29]; and

the processor is further operable to determine the subscriber information for communication to the particular subscriber based upon the path information for the particular subscriber and an identifier of the particular access server coupled to the particular subscriber [col 2, lines 58-col 3, lines 7].

8. As per claim 3, Vandette discloses the access server comprises an interface coupled to the particular subscriber using the particular virtual circuit [30, Figure 2C; and col 4, lines 7-10]; and

a controller coupled to the interface and operable to communicate a request identifying the particular virtual circuit that couples the interface and the particular subscriber [37, Figure 2C; and col 4, lines 14-31].

9. As per claim 4, Vandette discloses the interface comprises a plurality of network line cards [29, Figure 2A]. Vandette does not specifically disclose the path information for the particular subscriber further identifies a network line card assigned to the particular subscriber; and the processor is further operable to determine the subscriber information for communication to the particular subscriber based upon the path information for the particular subscriber and an identifier of a particular network line card coupled to the particular subscriber. Kobayasi discloses the path information for the particular subscriber further identifies a network line card assigned to the particular subscriber [i.e. line concentrator and distributor device] [col 1, lines

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15-18]; and the processor is further operable to determine the subscriber information for communication to the particular subscriber based upon the path information for the particular subscriber and an identifier of a particular network line card coupled to the particular subscriber [Figure 7B; and col 3, lines 44-49]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Vandette and Kobayasi because Kobayasi's teaching of identify network line card would allow the configuration process to be easily controlled and maintained.

10. As per claim 5, Vandette discloses the request comprises interface information identifying the interface coupled to the particular subscriber [30, Figure 2A]; virtual circuit information identifying the particular virtual circuit [32, 34a, Figure 2A]. Vandette does not specifically disclose access server information identifying the access server. Kobayasi discloses access server information identifying the access server [2a, 2b, Figure 4; and col 3, lines 66-col 4, lines 7]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Vandette and Kobayasi because Kobayasi's teaching would allow subscriber to immediately connect to the access server for faster connection time and reduce processing overhead.

11. As per claim 8, Vandette discloses the virtual circuit pre-assigned to the particular subscriber is associated with the particular subscriber using a virtual channel identifier and a virtual path identifier [Figure 7A].

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12. As per claim 9, Vandette discloses a virtual path identifier and a virtual channel identifier associated with the virtual circuit assigned to the particular subscriber [col 1, lines 36-44].

13. As per claim 10, Vandette discloses the subscriber information comprises information used to configure a communication device associated with the particular subscriber [col 2, lines 9-16].

14. As per claims 12-18, they are method claimed of claims 1-4, and 8-10, they are rejected for similar reasons as stated above in claims 1-4, and 8-10.

15. As per claims 20-23, they are rejected for similar reasons as stated above in claims 1-5.

16. As per claims 26-28, it is rejected for similar reason as stated above in claims 8-10.

17. As per claims 30-36, they are rejected for similar reasons as stated above in claims 1-4 and 8-10.

18. As per claims 38, 39 and 40, they are rejected for similar reasons as stated above in claims 1, 4 and 5.

19. As per claims 43, 44 and 45, they are rejected for similar reasons as stated above in claims 1, 4 and 5.

20. As per claims 48-54, they are rejected for similar reasons as stated above in claims 1-4 and 8-10.

21. Claims 6, 7, 11, 19, 24, 25, 29, 37, 41, 42, 46, 47 and 55, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandette et al. [US Patent No 6,785,228], in view of Kobayasi et al. [US Patent No 6,456,623], and further in view of Malkin et al. [US Patent No 6,061,650].

22. As per claim 6, Vandette and Kobayasi do not specifically disclose the request comprises a RADIUS protocol request. Malkin discloses the request comprises a RADIUS protocol request [col 4, lines 26-27]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Vandette, Kobayasi and Malkin because the teaching of RADIUS protocol of Malkin reference would allow remotely access information to add a portability aspect to the system.

23. As per claim 7, Malkin disclose the request comprises a trivial file transfer protocol request [i.e. packet transfer] [Abstract; and col 5, lines 37-39].

24. As per claim 11, Malkin discloses the subscriber information comprises at least one Internet protocol address for communication to the particular subscriber [col 5, lines 53-57].

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25. As per claims 19, 29, 37, and 55, they are rejected for similar reasons as stated above in claim 11.

26. As per claims 24, 41, and 46, they are rejected for similar reasons as stated above in claim 6.

27. As per claims 25, 42 and 47, they are rejected for similar reasons as stated above in claim 7.

28. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154



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